IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1948

14 Nos. 14 and 15 15

INTERNATIONAL UNION, U.A.W.A., A.F. of L. LOCAL 232; ANTHONY DORIA, CLIFFORD MATCHEY, WALTER BERGER, ERWIN FLEISCHER, JOHN M. CORBETT, OLIVER DOSTALER, CLARENCE EHRMAN, HERBERT JACOBSEN,

Petitioners,

vs.

WISCONSIN EMPLOYMENT RELATIONS BOARD, L. E. GOODING, HENRY RULE and J. E. FITZGERALD, as Members of the Wisconsin Employment Relations Board; and BRIGGS & STRATTON CORPORATION, a Corporation,

Respondents.

RESPONSE OF BRIGGS & STRATTON CORPORATION TO PETITION FOR REHEARING

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A. The Case was Correctly Decided After Most Intensive Consideration.

While every case presented to this Court is doubtless thoroughly briefed and conscientiously considered by the Court, unusually elaborate presentation of this case was made. The following briefs were filed with this Court:

The case was set for oral argument in conjunction with two other cases concerning orders of the Wisconsin Employment Relations Board and interpretations of the Wisconsin Labor Peace Act. Those cases involved similar points with this case as to jurisdiction of the state board, powers of states and questions of alleged conflict of state and federal law. (*La Crosse Telephone Corporation v. Wisconsin Employment Relations Board, et al*, decided January 17, 1949, and *Algoma Plywood & Veneer Company v. Wisconsin Employment Relations Board*, decided

March 7, 1949.) In both of those cases, voluminous briefs were also filed.

The Court allowed counsel substantial additional time for oral argument of the cases. The arguments were heard on November 18 and 19, 1948, and the Court had this case under advisement until February 28, 1949 (about three and one-half months), during which time it was obviously given searching study and intensive consideration.

In the course of the numerous briefs and the lengthy oral argument, every conceivable argument in support of each party's position was vigorously presented, the important ones being repeated in varying forms. The Petitioners' Brief for Rehearing raises nothing new and is largely a rephrasing of arguments previously made and is based on misconceptions of what was decided by this Court. It makes no point which was not fully and squarely met in the opinion in this case, a rereading of which furnishes the answer to the Petition for Rehearing.

B. Contrary to Petitioners' Assertions, the Decision Does Not Rest on the Question of Whether or What Demands Were Made.

1. Petitioners' brief asserts (p. 6) that "Inasmuch as this Court referred to the 'unstated ends' with such frequency and with such emphasis so as to conclusively demonstrate that the decision of this Court turned upon that point, and inasmuch as the record does not sustain the finding of this Court that the activities were for 'unstated ends' * * * " etc.

This Court, of course, made no "finding", and as to "frequency" and "emphasis", the opinion, in mentioning

the several facts involved, noted, among other things, that "the employer was not informed during this period of any specific demands which these tactics were designed to enforce nor what concessions it could make to avoid them." (slip op. p. 3). Once near the end of the opinion it used the phrases "unstated ends" (id. p. 18), and "undeclared demands." (id. p. 17).

Not only does the record fully sustain these statements, but the decision in no sense "turned upon that point". This point is actually very inconsequential since, had reference to such facts been wholly omitted from the opinion, the principles involved in the rationale of the decision are such that the result would be precisely the same. If, before each of the production interferences, the Union had made some specific demand, the procedure would still fall squarely within the regulation of the Wisconsin Act, the Wisconsin Board's order would have been the same, the Wisconsin Court's decision the same, and this Court's decision the same. Whether or not a specific demand is made, in the light of the whole pattern here involved, has but slight bearing on the objectionable nature of the conduct or of the state's right to regulate it.

This Court announced plainly the point on which the case turned, saying: "The substantial issue is whether Congress has protected the union conduct which the state has forbidden, and hence the legislation must yield." (id. p. 6), and it then proceeded to analyze and correctly decide that issue consistent with fundamental principles frequently enunciated by this Court and very recently repeated in several other cases.

In the "Summary" of this decision contained in Supreme Court, Law. ed. Advance Opinions, Volume 93, No. 9, p. 510, the holding is digested thus: " * * * none

of the provisions of the National Labor Relations Act and the Labor Management Relations Act conferred upon employees the absolute right to engage in every kind of strike or other concerted activity, and, in particular, the right to put pressure upon the employer by the recurrent unannounced stoppage of work." That is what the Court correctly held and not the concept sought to be read into the decision by Petitioners.

To meet the Union's claim at its extreme, suppose the Union had said, "We want a 25 cent an hour raise starting tomorrow. If you don't grant it, we are going to pull the employees off the job some time during working hours next week for the balance of the day and repeat that performance at frequent unannounced intervals until you accede." The Wisconsin statute restricts such production interferences (as not being a leaving of the premises to go on strike). The principle of the Wisconsin decision and of this Court's majority opinion is applicable to such a situation precisely as announced, and the ultimate holding would be the same.

The mere fact of whether or not there were "demands" does not govern the question of validity of the activity. The demand itself could be mere sham (as for some plainly preposterous concession) or improper (as to compel an employer to do an illegal act). That this is not imaginary, is established on the record by the fact that one of the Union's numerous demands was for maintenance of membership, although no vote to legalize such a provision under the Wisconsin law had ever been taken until months after the procedure had started (R. 40). In *Algoma Plywood & Veneer Company v. Wisconsin Employment Relations Board*, supra, this Court has just sustained the validity of that feature of the Wisconsin Act.

2. That the element of a demand was not a requisite feature of the Union's new tactic is clear on the Union's own testimony, and the principle of this Court's decision was not based on any such feature. Particular demands might or might not be involved in a given situation, and the Union gave these various occasions or reasons for the use of the tactics, most of which have nothing to do with the fulfillment of any Union demands whatever:

a. The walkouts are "spontaneous, and not of the union officials' action" (R. 37); i.e. at the whim of the employees, for no particular or assigned reason whatever.

b. "Every walkout has been called for the purpose of attending a union meeting" (R. 49); hence not to strike nor yet to enforce a demand.

c. The tactic might be applied because of "any new development in negotiations which might arise with respect to neutral boards" (governmental agencies) (R. 46); no question of demands and not dependent on demands.

d. It might be indulged in because of "any development in direct negotiations with management" (R. 46); not dependent on demands.

e. The tactic might be employed "any time the leadership feels management has started a rumor detrimental to the union's security" (R. 46). "The meetings serve the union's purpose of preventing 'company inspired' rumors from wrecking the group's solidarity" (R. 87). Again no questions of any demand.

f. *"The plan was to be able to have such control that when anything threatened our security in the*

plant we would be in a position to bring the members together to counteract acts against our union * * * *The union committee would determine when they felt it necessary to exercise that control* * * *" (R. 48); our emphasis. Again no question of demands, but the clear purpose to *control* the work hours and means of production. (This is elaborated on in this Respondent's original brief herein, pp. 27-32.)

3. In any event, the record is clear, as the Court said, that "the employer was not informed during this period of any specific demands which these tactics were designed to enforce nor what concession it would make to avoid them" (slip op. 3).

a. The union doesn't claim there were specific demands before each stoppage.

b. "The meetings are called without warning and take the company by surprise" (R. 88). Necessarily this had to be without a previous demand which could be accepted to avoid the production break-up.

c. "The company has been notified that they could be *very instrumental* in avoiding these meetings if they would quit starting rumors to undermine the union" (R. 49), our emphasis. This establishes both that the withholding of the use of the tactic *was not conditioned on the company meeting any demand,* and that even if it should try to accede to what it might believe to be the Union's wish, it would not thereby avoid having the weapon used for any one of a number of other purposes.

d. "At least four or five conferences were held after the work stoppage started where no reference was made to them at all" (R. 48). This substantiates the Court's indication that the Union never sought to negotiate with the company for termination of the practice as part of any terms of collective bargaining, and that cessation of these coercive efforts was never presented to the employer as a condition which would obtain, if any demands of any sort were met. In fact, the delineation (set out above) of the occasions on which, or purposes for which, it intended to use this tactic, establishes that the accession to any given demand or demands would *not* eliminate use of the device.

4. Mr. Doria testified at the hearing to still another purpose of the procedure, saying "The objective was to bring economic pressure against the company to agree to the directive of the Board" (R. 47). It is interesting, but not at all convincing, that Petitioners Brief p. 3 now asserts that the move was only to get the company to accede to the *Regional* War Labor Board's order, in view of the fact that the *Union* itself had in September, 1945 filed a petition for review of that Regional Board's order, which operated to stay the Regional Board order (21 War Labor Reports XXVII) and which order was still under consideration by the National War Labor Board when the tactics were started in November, 1945 (R. 34). The War Labor Board directive, as the Court pointed out in footnote No. 6 (slip op. 3), was not received until weeks after the stoppages started and after that Board had been abolished. There were some nineteen matters in dispute before the War Labor Board (R. 43). One of the demands was for maintenance of membership

which, as noted, the company couldn't legally grant (R. 40).

5. Furthermore, "After V. J. Day (August, 1945) new demands were made on the company by union representatives, primarily relating to wages" (R. 35), our parenthetical insert.

It is perfectly true (and no one has ever asserted otherwise) that the Wisconsin Board found and the Wisconsin Court and this Court specifically stated that the parties had been and were bargaining, and it is clear that the company knew in a general way of some of the things the Union claimed it wanted, and that the tactics were used to attain some concessions from the employer. However, it was also clear that the negotiations were in a fluid bargaining stage, with shifting and changing demands and counterdemands, and the Union demands were still in the process of and susceptible to modification and alteration even as late as the time of the hearing before the Wisconsin Board, as shown by the Union's testimony of its then willingness to make concessions on its demand for maintenance and as to a no-strike clause (R. 47, 48, 49).

Thus, though the nineteen or so issues were in controversy before the War Labor Board for months before the walkouts started, and *new* demands were made after August 18, 1945, and the War Labor Board had the matter under advisement on petition of *both* parties, and its final directive was not received by the company until January, 1946 when the Board was out of existence, and the changing demands were not in final form, the Union, without warning, started the tactics in November, 1945, clearly then *not* to enforce any War Labor Board directive nor any *specific* demands, but simply to try to coerce the employer into amenability and to exercise "control".

6. The Wisconsin Supreme Court, in authenticating the decision of the Wisconsin Board, specifically noted, as this Court noted, that "No demand was made on the company that any or a succession of walkouts would be engaged in unless the company conceded to the terms of the new contract as proposed by the union" (R. 107), and that is the indisputable fact on the record. The important point is that the Wisconsin Board rightly characterized the situation as follows:

> "It would seem clear that while the act of quitting in this case was done by mutual understanding that it wasn't a quit in the sense of an intention to quit *until the demands of the union were granted or an agreement had been reached,* but rather an attempt on the part of the employes, by mutual understanding *to determine what hours and under what conditions they would perform any work* for the employer." (R. 20) our emphasis.

This is what Petitioners now try to argue they were not trying to do, but argument does not supersede the established facts of record.

The essential important fact of the Board's action was that even though the use of the procedure might be for the general purpose of strengthening the Union's hand, the practice was held to be in violation of the Wisconsin Act. Thus the question of the existence of demands, specific or general, has no essential bearing on the real issue on which this case was decided by the Board, the Wisconsin Court and by this Court, as shown by this Court's statement of what was "the substantial issue".

We agree with the Union that the case should not turn on the question of whether or not Union demands were or were not made, when, where or of what type, but the Court's decision in no way was dependent on any such

slight circumstances and this Court held, in short, that the state's limitation on a concerted interference with production of the type here involved was not barred by the Federal law,—and the factor or element of "demands" is not in the Wisconsin statute at all and is quite unessential to the decision.

C. The Court Correctly Determined That the Activities Here Involved Were Not Federally Protected.

Petitioners argue under the last three headings in their brief, in substance, that this Court misconceived the extent to which the Federal Act restricts reasonable state regulation of certain types of concerted conduct. This is a reargument of the main contention made by Petitioners in their original appeal and is exactly the "substantial issue" which this Court exhaustively examined and treated in its opinion.

The principles on which this decision is grounded have again been recently and consistently applied by this Court in several cases, including *Lincoln Federal Labor Union et al v. Northwestern Iron & Metal Co.* and *Whitaker v. North Carolina*, 335 U.S. 525, and *American Federation of Labor v. American Sash & Door Company*, 335 U.S. 538, all decided January 3, 1949, and the *Algoma* case, supra, decided March 7, 1949. A reversal of itself now by this Court of its well-reasoned, original opinion, in the light of these other cases, would not only be illogical and inconsistent, but could cause incalculable confusion, not only in our body of labor law, but in the whole field of law relating to the state regulatory enactments.

Furthermore, it would lead to the impossible situation (visualized by this Court in the third last paragraph of

its opinion) since the activity would be subject neither to state nor federal regulation, and in addition, the employer would be helpless to take any steps to control his own production or the orderly operation of his plant.

The Petitioners' criticism of this Court's alleged misconception of the *Conn, Home Beneficial* and several Board cases is unfounded. In the *Conn* case, the employees there were making lawful demands for "an increase of 15% on all piece work prices or, time and one-half for all overtime over 40 hours per week" (108 F. 2d at 394); i.e. an improvement in wages or hours. There was a perfectly legitimate, single, simple alternative demand, of which the employer was informed in writing. If there were anything to the Union's "demand" argument discussed above, here indeed was a case in which the result would have been different from what it was.

Petitioners say that case was decided as it was because the employees "sought and intended to continue work upon their own notion of the terms which should prevail", (Pet. Br. p. 7), which is exactly what the Wisconsin Board found the Union here was trying to do. (See excerpt quoted above from R. 20). Actually the *Conn* decision holds that the objectionable *method,* and not the legitimate objective, was unprotected by the National Act.

What has been said applies equally to the *Home Beneficial Life* case where again the object was the perfectly legitimate one of trying to persuade the employer to change one of the working conditions, and again it was the *method,* not the object, which the Court condemned when it said:

> "The statute * * * does not and could not confer on them the right to engage en masse in unlawful activities * * *" 159 F. 2d at 284.

Petitioners' brief, as if repetition constitutes proof, asserts, in varying terms, "that an employer is prohibited from interfering with concerted activities which are protected by section 7 by *any* method * * *" (Pet. Br. p. 12), our emphasis. That such is not the law is firmly established by numerous cases, of which, to name but one, the *Fansteel* case is typical. This Court, there speaking through the Chief Justice, said:

> "But this recognition of 'the right to strike' plainly contemplates a lawful strike * * *" 306 U.S. at p. 256.

Petitioners disregard the fact that this is a form of concerted activity which the state has found to be an injurious practive in its internal business affairs, and "offensive to the public welfare", *Lincoln Federal* case, supra, Vol. 93, Law. ed. Adv. Op. at p. 208.

Though we do not agree with Petitioners' analysis of the *Harnischfeger, Cudahy* and *Armour* Board cases, we will not discuss them further, in view of this Court's statement that "* * * in no event could the Board adopt such a binding practice as to the scope of section 7 in the light of the construction, with which we agree, given to section 7 by the Courts of Appeal * * *" (slip op. p. 10).

This Court had no trouble in cutting through the arguments and pointing to the real danger when it said:

> "If we were to read section 13 as we are urged to do * * * the effect would be to legalize beyond the power of any state or federal authorities to control not only the intermittent stoppages such as we have here but also the slowdown and perhaps the sit-down strike as well * * * *And this is not all;* the management also would be disabled from any kind of self-help to cope with these coercive tactics * * *" (slip op. p. 17). Our emphasis.

In short, were the Court to adopt the Petitioners' position, it would give blanket endorsement to the Union's avowed intention, which was that "the plan was to be able to have * * * control" (R. 48).

This Court put its finger squarely on the dilemma in which industry would find itself if the Petitioners could employ this tactic without any regulation, when it said:

> "To dismiss or discipline employees for exercising a right given them under the Act or to interfere with them or the union in pursuing it is made an unfair labor practice and if the rights here aserted are rights conferred by the Labor Management Relations Act, it is hard to see how the management can take any steps to resist or combat them without incurring the sanctions of the Act." (slip op. p. 17).

The correctness of that statement is found in Petitioners' own argument. The members of the Court may recall that in the oral argument Petitioners' counsel attempted to minimize the grave underlying consequences of the procedure; namely, its practical transfer of management's function of scheduling work, and hence its other functions, to the Union whose "committee would determine when they felt it necessary to exercise that control * * *" (R. 48), as Mr. Doria so bluntly put it. Counsel, therefore ,originally said on oral argument that the company could punish the employees by discipline, ingluding, if necessary, *discharge*. On pressing questioning on this point by members of the bench, and seeing the inconsistency into which he was being driven, he then changed and said the company could not go so far as to discharge, —that would be too harsh, but it might "discipline", presumably by a lay-off.

Apparently appreciating that even the concession of the employer's right to "discipline" takes the supports

from under the Petitioners' main thesis (which is that this activity is *protected* under the National Act), that concession is not made in Petitioners' present brief. But, astonishingly, and still presumably to gloss over the underlying implications of the uncontrolled use of the device, Petitioners' brief blandly says:

> "This court has also overlooked the fact that the sole basis of the employer's complaint is the fact that the employees had not gone out on a conventional, full-time strike. Yet the employer could very easily have created that very situation by closing its plant until such time as the dispute over the new contract was settled. This it had a right to do, without running afoul of the National Law." (Pet. Br. p. 20).

Not only is there no authority cited for this unilaterally developed conclusion, but it is necessarily directly at odds with the fundamental basis of Petitioners' case. If the activity is *protected,* how then could the employer retaliate with the more drastic measure of a lock-out having as its object the coercing of the employees to give up the "protected" activity? No, the Union's own argument demonstrates the fallacy thereof.

D. What the National Board Might Have Done Had the Employer Discharged the Employees is Beside the Point.

Petitioners argue that if the employer had any doubt as to his rights he might have precipitated an unfair labor practice complaint case against himself; that he might have discharged one, or presumably all two thousand employees; that then the Union presumably might have filed charges; that the National Board would "investigate", and, of course, if the Union is correct, that Board

would, after hearings and all the procedures of the Board were utilized, then find the employer guilty and order reinstatement with back pay. This is scarcely a comforting solution for an employer intent on ascertaining his lawful rights by peaceful legal procedures.

Presumably, then the employer would have to appeal to have a Federal Circuit Court of Appeals pass on the legal issues, and thence, ultimately, the case could arrive before this Court where precisely the same issues would have been presented as were presented and passed on by this Court in this case.

It scarcely needs argument that the conjecture as to what might have been a way to get the validity of this state statute passed on, has no relevancy to the question of whether or not that statute is valid. The mere fact that the National Board might have taken jurisdiction of a (hypothetical) discharge case, and in the course of deciding it would be obliged to consider all properly applicable laws, including state laws, in no way establishes that the state law is invalid or over-ridden by the federal law. Even had the National Board in such a case held the state law invalid, as bein in conflict with the National Act, that determination of law would in no sense be binding on the Courts on review.

This Court said (slip op. 7):

> "There is no existing or possible conflict or overlapping between the authority of the federal and state Boards, because the federal Board has no authority to investigate, approve or forbid the *union* conduct in question. This conduct is governed by the state or it is entirely ungoverned." (our emphasis).

What the Federal Board could or could not do about an *employer's* conduct in discharging an employee can't possibly affect the question of whether this statute pertaining to *employee* conduct is valid.

Petitioners ignore the fact that employees, regardless of the rights accorded them by the Federal Act, are also amenable to countless state regulatory acts, which the Federal Act cannot possibly override. The *Fansteel* case, again, is typical of a situation in which the state laws, with respect to peace and order, intervened to make illegal, concerted conduct, which, on the face of the bare words of section 7 of the National Act, would have been lawful and "protected".

E. Response to Amicus Curiae Brief of Congress of Industrial Organizations.

We received, on the afternoon of March 31, the brief above referred to. The short time within which our response must be filed does not permit an extended response to that brief, nor is such required. We will comment briefly on each of the sections of that brief under the number used therein.

I.

Counsel is unduly exercised over what he believes to be the scope of the decision, which in no way impairs the right to the legitimate strike. For the eminently sound reasons explicitly indicated in the decision, it merely holds that the particular tactics instantly involved are not precluded by the Federal Act from reasonable regulation by the state.

II.

The charge of confusion and misconception by the Court as to what it was deciding is almost an affront, since

any fair reading of the decision cannot lead to any of the four alleged uncertainties set forth as to what the decision holds.

(1) The Court did not say that the National Act was inapplicable because the activities were or were not a strike, since that was unnecessary to the decision.

(2) The decision, of course, does not say that states may regulate or prohibit strikes or other concerted employee activities which this Court might agree, for some reason, were improper.

(3) The decision does hold that the state may police these particular activities as it could police strike activities because "Congress has not made such employee or union conduct as is involved in this case subject to regulation of the federal Board." (slip op. p. 7).

(4) The decision of course does not say that the state may prohibit any activity as long as it does not make it illegal merely because it is undertaken by workers acting in concert.

The decision plainly, clearly and simply holds that the provisions of the National Act have not conferred upon employees the absolute right to engage in every conceivable kind of a concerted activity, particularly the activity involved in this case, pursuant to which control of a business could be as effectively taken over as in the slowdown or sit-down.

III.

The decision itself adequately answers the argument that the National Act has occupied the entire field of the subject here involved. That Congress expressed no such intention in the original Wagner Act has been declared

by this Court when it said "Congress has not seen fit to lay down even the most general of guides to construction of the Act, as it sometimes does, by saying that its regulation either shall or shall not exclude state action." *Bethlehem Steel Company v. New York Labor Relations Board,* 330 U.S. 767 at 771 and this Court again expressly said of the Wagner Act that Congress "designedly left open an area for state control." *Allen Bradley Local No. 1111 vs. Wisconsin Employment Relations Board,* 315 U.S. 740 at 750.

The Labor Management Relations Act of 1947 left unchanged the basic pattern of Federal regulation of labor relations adopted in the Wagner Act, "So that we start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress." *Rice v. Santa Fe Elevator Corporation,* 331 U.S. 218 at 230. Not only is such "clear and manifest purpose" not indicated by that Act, but, on the contrary, its language and legislative history demonstrates that Congress, far from desiring to pre-empt state action, set out to encourage state laws to supplement the Federal scheme of regulation, and, during the debate on the conference agreement on the Act, several discussions on this point took place, of which the following is an adequate example:

> *"Mr. Kersten*: Wisconsin and other states have their own labor relations laws. We are very anxious that disputes be settled at the state level insofar as it is possible. Can the gentleman give us assurance on that proposition, so that as a matter of record, that is the sense of the language of the report?
>
> *"Mr. Hartley*: That is the sense of the language of the bill and of the report. That is my interpretation of the bill, that this will not interfere with the

State of Wisconsin in the administration of its own laws. In other words this will not interfere with the validity of the laws within that state.

"*Mr. Kersten*: And it will permit as many of these disputes to be settled at the state level as possible?

"*Mr. Hartley*: Exactly." Daily Congressional Record June 4, 1947, p. 6540.

In testing, therefore, whether a given state law conflicts with the provisions of a Federal Act, this Court has always followed this early statement:

"* * * in the application of this principle of supremacy of an Act of Congress in a case where the state law is but the exercise of a reserved power, the repugnance or conflict should be *direct* and *positive*, so that the two acts could not be reconciled or consistently stand together;" *Sinnot v. Davenport*, 63 U. S. 243 at 247; our emphasis.

This Court has repeatedly, and as late as in the "closed shop" cases, supra, been very reticent to hold a state law enacted under the reserved police power to be in conflict with Fderal law.

"These cases recognize the established rule that a state law enacted under any of the reserved powers—especially if under the police power—is not to be set aside as inconsistent with an Act of Congress, unless there is actual repugnancy, or unless Congress has, at least manifested a purpose to exercise its paramount authority over the subject." *M. K. & T. Ry. Co. v. Harris*, 234 U.S. 412 at 418.

In connection with that intent, this Court has said "The intention to do so must *definitely* and *clearly* appear." *Mintz v. Baldwin*, 289 U.S. 346 at 350 (our emphasis).

The unanswerable exposition of why this particular state act is not in conflict with the Federal Act is contained at length in this Court's decision now under attack

Now we come to a most amazing theory advanced for the first time in this amicus brief, to the effect that the Union's tactics here would constitute a refusal to bargain under the National Act, and that, therefore, these tactics "would probably be an unfair labor practice under the Federal act" (Br. p. 6, 7). This is an unqualified and astounding reversal of the Petitioners' whole argument to the effect that these tactics are not only *permitted* but are *protected* by the Federal Act. In the attempt, therefore, to try to demonstrate by that conclusion that the Federal Act has pre-empted control over this particular activity, counsel defeats his own aims, since if the argument were correct, then the state act, in classifying the activities as unfair, not only is not in conflict with the Federal Act, but in complete harmony with it and is implementing its purposes. If that argument is valid, one may well ask, just what is this case all about and why did the Union ever appeal?

IV.

The Union's "tentative" analysis of what it believes "to be the proper fields of federal and state power over strikes or work stoppages affecting interstate commerce" (Br. p. 7), is merely an expression of its desires, unsupported by authority, and untenable in the face of the adequate demonstration by this Court, in its present decision, of the proper scope and sphere of the federal and state acts as applied to the tactics here before the Court.

F. Conclusion.

The holding here is in complete accord with this Court's own decisions. It was essential in the best interests of

employees, employers and the public alike. It is based upon correct principles of sound sense, sound law and sound justice, and should be adhered to.

Respectfully submitted,

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